

Attorney Docket No.: P-EMZ-011-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Ziv Soferman	Examiner:	Hirl, Joseph P	RECEIVED
Serial No.:	10/661,718	Group Art Unit:	2129	CENTRAL FAX CENTER
Filed:	09/11/2003			OCT 07 2008
Title:	SYSTEM AND METHOD FOR CONTROLLING ONE OR MORE SIGNAL SEQUENCES CHARACTERISTICS			

**ARGUMENTS FILED IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

The following arguments are being filed in support of the attached: (1) Notice of Appeal, and (2) Pre-Appeal Brief Request For Review, in response to a Final Office Action dated 10th July 2008. A response to the Final Office Action dated 10th July 2008, is due 10th October 2008, and accordingly these papers are being timely filed.

ARGUMENTS

Applicant pleads to the panel for intervention and relief from the Examiner's erroneous 101 rejection of independent claims 1, 30, 63, 74 and 82. Applicant queries whether Examiner Hirl has been mandated by Congress to redefine "statutory subject matter" under 35 USC 101? More specifically, although each of the independent claims does include a limitation relating to either determining or using a characteristic of a signal sequence as part of encoding or transmitting data, none of the claims only "generally recite limitations related to characteristics of signal sequence which is interpreted to be nothing but the physical

APPLICANT(S): Ziv Soferman
SERIAL NO.: 10/661,718
FILED: 09/11/2003
Page 2

RECEIVED
CENTRAL FAX CENTER

OCT 07 2008

characteristics of a form of energy, such as a frequency, voltage, amperage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are non-statutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14", as the Examiner asserts. Each of the claims is directed to a method or system which uses information about a signal to support decision making downstream in an encoding or transmitting process. If the Examiner's position that the determination and use of a characteristic of a signal sequence for encoding or transmitting data was non-statutory subject matter were correct, this position would imply that no patents for signal processing technologies, digital communication or data transmission systems should have or will be issued by the USPTO. However, looking at the USPTO database of patents, Applicant has found tens of thousands of patents directed to such systems. A USPTO database search for patents with the terms "determine signal" in the claims produces 704 results.

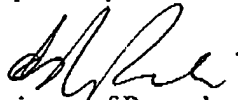
CONCLUSION

Independent claims 1, 30, 63, 74 and 82 were amended, in the response to the Office Action mailed 31st August 2007, in order to clearly expressly recite the tangible result/application which is the subject of the pending claims.

Applicant respectfully reasserts their position that the aforementioned amendments render independent claims 1, 30, 63, 74 and 82 and all claims dependent upon them proper under 35 USC 101, and requests that the rejections be withdrawn.

In conclusion, Applicant respectfully asserts that the Examiner has erroneously attempted to redefine what is statutory subject matter. The Panel intervention and relief is respectfully requested.

Respectfully submitted,


Assignee of Record
Emblaze Vcon Ltd

Dated: October 7, 2008